

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BECKLEY

THOMAS R. MENEI,

Plaintiff,

v.

Case No. 5:03-00169

HON. HARRY L. KIRKPATRICK,  
III, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

By Standing Order entered on May 20, 2002, and filed in this case on March 3, 2003, this matter was referred to United States Magistrate Judge R. Clarke VanDervort. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge VanDervort to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation on January 19, 2006, and proposed that this court (1) confirm and accept the magistrate judge's findings, (2) dismiss this civil action without prejudice for failure to prosecute, and (3) direct the Clerk to remove this matter from the court's docket.

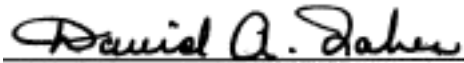
In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Proposed Findings and Recommendation. The failure of any party to file objections within the appropriate time frame constitutes a waiver of such party's right to a de novo review by this court. Snyder

v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the Findings and Recommendation filed by Magistrate Judge VanDervort, the court (1) **CONFIRMS** and **ACCEPTS** the magistrate judge's findings; (2) **DISMISSES** this civil action without prejudice for failure to prosecute; and (3) **DIRECTS** the Clerk to remove this action from the active docket of this court. The Clerk is further directed to forward a certified copy of this Memorandum Opinion and Order to all counsel of record and the plaintiff, pro se.

IT IS **SO ORDERED** this 8th day of February, 2006.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber  
Chief Judge